

AUG 20 2003

**Before the State of South Carolina
Department of Insurance**

STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

13

In the Matter of:

SCDOI File Number 114015

Denny W. Toxey

Post Office Box 35
Cross, South Carolina 29436.

**Consent Order
Imposing Administrative Penalty**

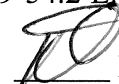
This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Denny W. Toxey, an agent licensed to transact business in the State of South Carolina.

Denny W. Toxey acknowledges that he failed to complete replacement notification on group health policies and provided forms to an individual from an insurer that he was no longer licensed with. These are direct violations of South Carolina Regulation 69-34.2 E.(1)(2) and § 38-43-240(A)(1) of the South Carolina Code that can ultimately lead to the revocation or suspension of an agent's license to transact the business of insurance in South Carolina.

Prior to the initiation of any administrative proceedings by the Department against Denny W. Toxey, the parties agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that, in lieu of the Department seeking to revoke agent's license, he would waive his right to a public hearing and immediately pay an administrative fine in the total amount of \$1000.

Section 38-13-160 of the South Carolina Code states that, "The director or his designee may require any authorized insurer or its officers to answer any inquiry in relation to its transactions, condition, or any connected matter necessary to the administration of the insurance laws of the State. Every corporation or person must reply in writing to the inquiry promptly and truthfully, and every reply must be verified, if required by the director or his designee, by the individual or by the officer or officers of a corporation as he designates." Section 38-5-120 states, in pertinent part, that the Director of Insurance "shall revoke or suspend certificates of authority granted to an insurer...if he is of the opinion upon examination or other evidence that...(t)he insurer has not complied with the law or with the provisions of its charter." Alternatively, § 38-5-130 provides that in lieu of license revocation or suspension, the Director may impose a monetary penalty as provided in § 38-2-10.

After a thorough review of the record, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Denny W. Toxey has violated § 38-43-240 (A)(1) & South Carolina Regulation 69-34.2 E. (1)(2). Although



Denny W. Toxey

Toxey has violated § 38-43-240 (A)(1) & South Carolina Regulation 69-34.2 E. (1)(2). Although I can now revoke the agent's license, I hereby invoke the discretionary authority given to me and impose against Denny W. Toxey an administrative fine in the total amount of \$1000. That fine must be paid within ten days of the date of my signature upon this Consent Order. If that total fine amount is not timely paid, the agent's license will be revoked without any further disciplinary proceedings.

This fine has been reached by the parties as a result of negotiation and compromise, and in consideration of Denny W. Toxey's assurance that he will comply with all statutes and regulations of this Department. This penalty includes all expenses related to investigation of this matter as provided in § 38-13-70 of the South Carolina Code. The parties expressly agree and understand payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter. By the signature of Denny W. Toxey upon this consent order, he acknowledges this administrative order as a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000).

Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (Supp. 2000).

It is, therefore, ordered that Denny W. Toxey shall, within ten days of the date of my signature on this consent order, pay through the South Carolina Department of Insurance an administrative fine in the total amount of \$1000.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective as of the date of my signature below.

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August 14, 2003
Columbia, South Carolina

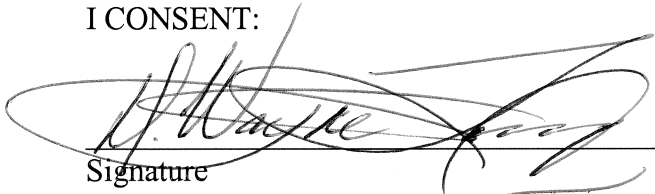


Ernst N. Csiszar
Director



Denny W. Toxey

I CONSENT:


Signature

DENNY WAYNE TOXEY
Printed Name

AGENT
Title

Denny W. Toxey
Post Office Box 35
Cross, South Carolina 29436

Dated this 14 day of August 2003.


Denny W. Toxey